

UNITED STATES DISTRICT COURT

for the
Middle District of North Carolina

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

Information associated with Facebook user names "Kant
Keepup Withme" and/or "asharod" that is stored at
premises controlled by Facebook

Case No. 16 MJ 119

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

Information associated with the captioned user name(s) stored at premises owned, maintained, controlled or operated by Facebook, Inc., as further described in Attachment A

located in the Northern District of California, there is now concealed (identify the person or describe the property to be seized):

Fruits, evidence and instrumentalities of violations of 18 U.S.C. Section 922(g)(1), as further described in Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. 922(g)(1)	Felon in Possession of a Firearm

The application is based on these facts:
Please see attached Affidavit of Task Force Officer Michael L. Montalvo

☒ Continued on the attached sheet.

☒ Delayed notice of 30 days (give exact ending date if more than 30 days:) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


Applicant's signature

Michael L. Montalvo, Task Force Officer
Printed name and title

Sworn to before me and signed in my presence.

Date: 06/09/2016


Judge's signature

City and state: Greensboro, North Carolina

United States Magistrate Judge
Printed name and title

ATTACHMENT A

Property to Be Searched

This warrant applies to information associated with the Facebook user name(s) “Kant Keepup Withme” and/or “asharod” that are stored at premises owned, maintained, controlled, or operated by Facebook Inc., a company headquartered in Menlo Park, California.

ATTACHMENT B

Particular Things to be Seized

I. Information to be disclosed by Facebook

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook Inc. ("Facebook"), including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for each user name listed in Attachment A:

- (a) All contact and personal identifying information associated with the Facebook user name(s) "Kant Keepup Withme" and/or "asharod," including: full name, email address, user identification number, birth date, gender, contact email addresses, Facebook password, Facebook security questions and answers, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.
- (b) All activity logs for the account and all other documents showing the user's posts and other Facebook activities;
- (c) All photos and videos uploaded by the above-referenced user name(s) and all photos and videos uploaded by any users that have that user/those user(s) tagged in them;
- (d) All profile information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook email addresses and user identification numbers; groups and networks of which the user is a member, including the groups' Facebook

group identification numbers; future and past event postings; rejected “Friend” requests; comments; gifts; pokes; tags; and information about the above-referenced users’ access and use of Facebook applications;

- (e) All other records of communications and messages made or received by the above-referenced user(s), including all private messages, chat history, video calling history, and pending “Friend” requests;
- (f) All “check ins” and other location information;
- (g) All IP logs, including all records of the IP addresses that logged into the accounts associated with the above-referenced user(s);
- (h) All records of the account(s)’ respective usage of the “Like” feature, including all Facebook posts and all non-Facebook webpages and content that the user(s) have “liked”;
- (i) All information about the Facebook pages that the account(s) are or were a “fan” of;
- (j) All past and present lists of friends created by the account(s);
- (k) All records of Facebook searches performed by the account(s);
- (l) All information about the user(s)’ access and use of Facebook Marketplace;
- (m) The types of service utilized by the user(s);
- (n) The length of service (including start date) and the means and source of any payments associated with the service (including any credit card or bank account number);

- (o) All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the accounts;
- (p) All records pertaining to communications between Facebook and any person regarding the user(s) or the user(s)' Facebook accounts, including contacts with support services and records of actions taken.

II. Information to be seized by the government

All information described above in Section I that constitutes fruits, evidence and instrumentalities of violations of 18 U.S.C. § 922(g)(1) involving Sharod Marquis Armstrong from December 1, 2015 to February 29, 2016, for the user name(s) identified on Attachment A, in the form of the following:

- (a) IP logs for activity during that period;
- (b) Information reflecting the purchase, transfer, and/or possession of firearms by Sharod Marquis Armstrong during that period;
- (c) The following subscriber information associated with the Facebook user name(s) "Kant Keepup Withme" and/or "asharod": full name, email address, user identification number, birth date, gender, contact email addresses, Facebook password, Facebook security questions and answers, physical address (including city, state, and zip code), telephone numbers, and/or screen names; and
- (d) All records of communications and messages made or received by the Facebook user name(s) "Kant Keepup Withme" and "asharod" including all private messages, chat history, and/or video calling history, that reflect the name, email address, gender, contact email addresses, physical address (including city, state,

and zip code), telephone numbers, and/or screen names associated with the Facebook user name(s) “Kant Keepup Withme” and/or “asharod.”

CERTIFICATE OF AUTHENTICITY OF DOMESTIC BUSINESS
RECORDS PURSUANT TO FEDERAL RULE OF EVIDENCE 902(11)

I, _____, attest, under penalties of perjury under the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this declaration is true and correct. I am employed by Facebook, and my official title is _____. I am a custodian of records for Facebook. I state that each of the records attached hereto is the original record or a true duplicate of the original record in the custody of Facebook, and that I am the custodian of the attached records consisting of _____ (pages/CDs/kilobytes). I further state that:

- a. all records attached to this certificate were made at or near the time of the occurrence of the matter set forth, by, or from information transmitted by, a person with knowledge of those matters;
- b. such records were kept in the ordinary course of a regularly conducted business activity of Facebook; and
- c. such records were made by Facebook as a regular practice.

I further state that this certification is intended to satisfy Rule 902(11) of the Federal Rules of Evidence.

Date

Signature

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

IN THE MATTER OF THE SEARCH OF
INFORMATION ASSOCIATED WITH
FACEBOOK USER NAME(S) "Kant Keepup
Withme" and/or "asharod" THAT IS STORED
AT PREMISES CONTROLLED BY
FACEBOOK INC.

Case No. _____

Filed Under Seal 

AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT

I, Michael L. Montalvo, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant for information associated with certain Facebook user names that are stored at premises owned, maintained, controlled, or operated by Facebook Inc. ("Facebook"), a social networking company headquartered in Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Facebook to disclose to the government records and other information in its possession, pertaining to the subscriber or customer associated with the email address.

2. I am a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") and am currently assigned to the Greensboro, North Carolina Field Office within the Charlotte Division, having been so deputized for the last 16 years. I am also a detective with the Greensboro Police Department, with whom I have been employed as a law enforcement officer for over 24 years. In my capacity as an ATF Task Force Officer, I have been involved with the investigation of various forms of federal crimes, including violations of

the federal firearms laws and various other crimes. I am currently involved in an ongoing investigation into the crime of felon in possession of a firearm in and affecting interstate commerce, in violation of 18 U.S.C. § 922(g)(1). The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

3. Based upon my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that a violation of 18 U.S.C. § 922(g)(1) has been committed by Sharod Marquis Armstrong. There is also probable cause to search the information described in Attachment A for evidence of these crimes, as described in Attachment B.

PROBABLE CAUSE

4. On January 31, 2016 at approximately 1:30 a.m. Greensboro Police responded to the Exxon Gas Station located at 3028 West Gate City Blvd in Greensboro, North Carolina, in reference to a disorder call. Upon arrival, officers spoke with the clerk on duty who advised that a black man, later identified as Sharod Marquis Armstrong, entered the store and attempted to purchase some goods. The clerk advised that Armstrong exited the store without paying for all of the items and an argument ensued between the two.

5. The clerk indicated that Armstrong exited the store and retrieved a firearm from a Nissan Altima parked directly outside of the front door of the store. The clerk locked the door to the store because he observed that Armstrong was in possession of a firearm. The clerk told police that Armstrong was yelling something at them from outside of the store. Armstrong attempted several times to open the locked door. The clerk advised that Armstrong placed the firearm in his waist band.

6. Officers detained Armstrong and spoke with the two young women seated in the passenger seat and rear seat of the car. Officers received consent to search the car, which belonged to one of the women's father. In the trunk of the Altima inside a white purse, officers located a Glock .40 caliber Pistol, Model 23, Serial Number SZM324, and a Taurus .45 caliber Pistol, Model PT145Pro, Serial Number NAP845510. Armstrong was seen on store surveillance footage carrying the white purse after he confronted the clerk and attempted to enter the store. [In reviewing the store's surveillance footage, I could not see either gun in Armstrong's hands, but much of the view of the period when the clerk stated he possessed one of the guns is obscured by people and signs on the windows and door of the store.] He can then be seen opening the trunk of the car and putting the white purse inside. A review of the surveillance footage indicates that no one opened the trunk or manipulated the purse until officers opened it several minutes after arriving pursuant to their search.

7. Both firearms were loaded. An examination by a crime scene investigations technician with the Greensboro Police Department yielded no latent prints on the firearms.

8. In the purse where the guns were found, officers also located what appeared to be a prescription cough syrup bottle without the label.

9. In searching the front seat of the car, officers found a small Grey Goose-brand vodka bottle.

10. Officers placed Armstrong under arrest and transported him to the Guilford County Jail where he was charged with Felon in Possession of a Firearm and Simple Possession of Marijuana.

11. Sharod Marquis Armstrong was a prohibited person and had been convicted of the following crimes in North Carolina Superior Courts, punishable by imprisonment for terms exceeding one year:

- a. 14CRS085312, Assault With Deadly Weapon (AWDW) Serious Injury, Offense Date: 08/06/2014.
- b. 13CRS096450, AWDW Government Official, Offense Date: 11/06/2013.
- c. 13CRS096451, Elude Arrest MV, Offense Date: 11/06/2013.
- d. 13CRS096453, Possession of Firearm by Felon, Offense Date: 11/06/2013.
- e. 14CRS085314, Possession of Firearm by Felon, Offense Date: 08/06/2014.
- f. 09CRS053250, Common Law Robbery, Offense Date: 10/17/09.

12. Agent Ernie Driver, an ATF Special Agent and nexus-examination expert, examined the firearms and his examination revealed that the firearms were not manufactured in North Carolina. Namely, the Glock had been manufactured in Austria and the Taurus had been manufactured in Brazil. Therefore, both firearms had moved in and affected interstate and foreign commerce.

13. On February 1, 2016, a Greensboro Police Department detective reviewed the Facebook profile of the user “Kant Keepup Withme,” located at <https://www.facebook.com/asharod>. The profile picture of this user featured a person that the detective recognized as Armstrong, both from his personal encounters with him, as well as the booking photographs taken during his arrests. The profile homepage further stated that the user “Kant Keepup Withme” “lives in Laurinburg, NC” and “is from Laurinburg.” Armstrong is from Laurinburg and was in the process of transferring his probation supervision from Laurinburg to Greensboro.

14. On or about January 30, 2016 at 10:18p.m.,¹ the Facebook user “Kant Keepup Withme” posted a photograph with the caption “All i want.” The photograph depicts what appear to be a Taurus .45 caliber Millennium pistol and a Glock .40 caliber pistol. Next to the Taurus pistol is what appears to be a prescription cough syrup bottle without a label. Below the handguns is a plastic Coke bottle and two small Grey Goose-brand vodka bottles.

15. In my experience investigating firearms-related crimes, I have known other convicted felons who are prohibited from possessing firearms to post photographs and/or videos of firearms on social media outlets, including but not limited to Facebook and/or You Tube. I have also known such individuals to post photographs and/or videos featuring the firearms alongside other items of contraband on those same social media outlets.

16. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

17. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user’s full name, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers (for password retrieval), physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns an email address to each user account.

¹ Facebook only dates the photograph as being posted at that time.

18. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two users will become "Friends" for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user's account includes a list of that user's "Friends" and a "News Feed," which highlights information about the user's "Friends," such as profile changes, upcoming events, and birthdays.

19. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create "lists" of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

20. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post "status" updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming "events," such as social occasions, by listing the event's time, location, host, and guest list. In addition, Facebook users can "check in" to particular locations or add their geographic locations to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user's profile page also includes a "Wall," which is a space where the user

and his or her “Friends” can post messages, attachments, and links that will typically be visible to anyone who can view the user’s profile.

21. Facebook allows users to upload photos and videos. It also provides users the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook’s purposes, the photos and videos associated with a user’s account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.

22. Facebook users can exchange private messages on Facebook with other users. These messages, which are similar to e-mail messages, are sent to the recipient’s “Inbox” on Facebook, which also stores copies of messages sent by the recipient, as well as other information. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a Chat feature that allows users to send and receive instant messages through Facebook. These chat communications are stored in the chat history for the account. Facebook also has a Video Calling feature, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

23. If a Facebook user does not want to interact with another user on Facebook, the first user can “block” the second user from seeing his or her account.

24. Facebook has a “react” feature that allows users to give positive feedback or connect to particular pages. Facebook users can “react” to Facebook posts or updates, as well as webpages or content on third-party (i.e., non-Facebook) websites. Facebook users can also become “fans” of particular Facebook pages.

25. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.

26. Each Facebook account has an activity log, which is a list of the user's posts and other Facebook activities from the inception of the account to the present. The activity log includes stories and photos that the user has been tagged in, as well as connections made through the account, such as "liking" a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user's Facebook page.

27. Facebook Notes is a blogging feature available to Facebook users, and it enables users to write and post notes or personal web logs ("blogs"), or to import their blogs from other services, such as Xanga, LiveJournal, and Blogger.

28. The Facebook Gifts feature allows users to send virtual "gifts" to their friends that appear as icons on the recipient's profile page. Gifts cost money to purchase, and a personalized message can be attached to each gift. Facebook users can also send each other "pokes," which are free and simply result in a notification to the recipient that he or she has been "poked" by the sender.

29. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

30. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user's access or use of that application may appear on the user's profile page.

31. Facebook uses the term "Neoprint" to describe an expanded view of a given user profile. The "Neoprint" for a given user can include the following information from the user's

profile: profile contact information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook email address; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications.

32. Facebook also retains Internet Protocol ("IP") logs for a given email address or IP address. These logs may contain information about the actions taken by the email address or IP address on Facebook, including information about the type of action, the date and time of the action, and the email address and IP address associated with the action. For example, if a user views a Facebook profile, that user's IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so. Each IP address is associated with a particular location, as well, and thus, the IP log for Facebook actions can indicate the approximate location of where the action at issue occurred.

33. Social networking providers like Facebook typically retain additional information about their users' accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider's support services, as well as records of any actions taken by the provider or user as a result of the communications.

34. Therefore, the computers of Facebook are likely to contain all the material described above, including stored electronic communications and information concerning subscribers and their use of Facebook, such as account access information, transaction information, IP information, and other account information.

INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED

35. I anticipate executing this warrant under the Electronic Communications Privacy Act, particularly 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrant to require Facebook to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

CONCLUSION

36. Based on the forgoing, I request that the Court issue the proposed search warrant.

37. This Court has jurisdiction to issue the requested warrant because it is “a court of competent jurisdiction” as defined by 18 U.S.C. § 2711. See 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court is “a district court of the United States . . . that – has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i). Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.

Respectfully submitted,



Michael L. Montalvo
Task Force Officer

Bureau of Alcohol, Tobacco, Firearms and
Explosives

Subscribed and sworn to before me on June 9, 2016

A handwritten signature in cursive script, appearing to read "L. Patrick Auld", written over a horizontal line.

L. PATRICK AULD
UNITED STATES MAGISTRATE JUDGE